File No. 447

19 33.

Collection No.

Mysore Residency

Bangalore.

Pros. Serial Nos. 1-2

Subject.

Election of Municipal Commissioners in the Civil and Military Station of Bangalore.

Previous References.

Later References.

S. 97.—(Blue).

MFP—168S&P—(M-184)—11-8-34—60,000.

P.M.C.

Letter No.8895/33 dated the 28th November 1933 from the President, Municipal Commission, C. & M. Station, Bangalore.

(1)

The position taken up by the P.M.C. appears to be correct.

(2)

Whatever the law in British India or elsewhere may be, it is nowhere stated in our rules (the relevant rules 5 and 6) that a person is not qualified to be elected as a Commissioner unless he is entitled to vote.

× Page 2 of (L)

—do— (3)

Under the proviso to rule 5, when an undivided Hindu family has paid double the taxes or land revenue prescribed in clause (d) of that rule, any one member thereof, having the other qualifications required, shall be eligible to be elected a Commissioner. It will be noticed that there is no similar provision in rule 7. Apparently, in the case of such a family, only the manager is entitled to vote, though any one of the members is entitled to be elected a Commissioner. The rules therefore allow of a man being elected a Commissioner though he is not qualified to vote. The position may perhaps appear to be anomalous, but seems nevertheless to be correct.

× Page 3 of (L)

(4)

Mr.Anniah Reddy's name was not included originally either in the list of persons qualified to be elected or in the list of those qualified to vote, but was subsequently inserted in the former under rule 18 on an application made by him under rule 17(a). He claimed inclusion under the proviso to rule 5 and his claim was ~~investigated~~ enquired into and accepted by the President and the Commissioners acting under rule 18. They were presumably satisfied that he had all the qualifications required

× Rule 15— Page 5 of (L)

× —do—

L —do—

× Page 2 of (L)

× Page 5 of (L)

und-

under rule 5 and was not disqualified under rule 6 to be included in the list of persons eligible to be elected.

Moreover, the rules issued by the Resident do not make any provision for setting aside an election except on the ground of corrupt practices or intimidation (rules 13 and 14). There is no rule or section corresponding to section 51 of the Madras District Municipalities Act, by which, after election, the qualification of a person elected to remain a Commissioner can be tested by an election petition. Section 11 of the Bangalore Municipal Law no doubt empowers the Resident to remove a Commissioner under certain circumstances, but the conditions prescribed in that section do not seem to cover a case of this kind. Again, under section 173 of the Law, the Resident has power to annul or modify any proceeding of the Commission which he considers not to be in conformity with any law or rules in force in the Station; but this section too, cannot, it appears, be applied to the present case, as the election of a person as a Commissioner is not a proceeding of the Commission, but an act of the voters. So, even assuming that it is now found that Mr.Anniah Reddy does not possess the necessary qualifications to be elected and that his name was wrongly included in the list, it does not appear that the Resident can declare his election to be void on that ground. The petitioners may, if they choose, seek redress in a court of law and if, for any reason, the court should hold the election to be void, the Resident can, under section 11, remove the Commissioner on the ground that he has become 'incapable of acting' in view of the pronouncement made by the court.

In the circumstances, the P.M.C. may, if approved, be informed that the Hon'ble the Resident agrees that

that the election of Mr.Anniah Reddy cannot ~~xxx~~ be interfered with on the grounds alleged in the petition enclosed ~~with~~ his letter. Draft submitted for consideration.

K.N.Jaya
12.12.33.

(From para 1)

R
26.12.33

Leaf

(7)

Govt. Pleader c/o for remarks please

Cu 29/12

U.O.No. 54.
Dated, the 2nd January 1934.

(8)

I beg to be excused from expressing an opinion in this matter as I was the defeated candidate at the election. I am sorry for not having returned this file earlier as it had escaped my attention

T. Suryanarayana
24.5.34

5 months

Urgt.

2/1

GEORGE GAZETTE IN WITNESS
25 MAY 1934
5010

(9) In the circumstances stated in para 8 ante may the draft already submitted issue please?

S. Sangaroyan
1.6.34

(From para 8)

P.C.N.
1.6.34

(The Govt. Pleader has taken 5 months to produce his note at para 8)

Seen.

Close
8-6-34

Read

Rw

13-1,000—11—9—1933.

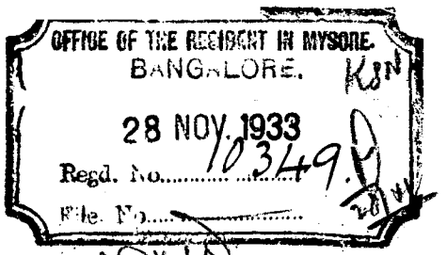
No. 8895/33 Gen

CIVIL AND MILITARY STATION, BANGALORE
MUNICIPAL OFFICE.
DATED 28th November 1933.

From

G. H. COOKE, ESQ., M. C., I. C. S.,
President, Municipal Commission,
Civil and Military Station, BANGALORE.

To



The Secretary to the Hon'ble the Resident in Mysore,
Bangalore.

SIR,

General Election of Municipal Commissioners.

I have the honour to forward, herewith, for the orders of the Hon'ble the Resident, a petition dated the 17th November *December 1933, from certain Hindus and Other voters of the 1st Division, protesting against the election of Mr. J. S. Anniah Reddy to represent Hindus and Others of No.I Division on the ground that he is not eligible to be elected a Municipal Commissioner as his name does not appear in the voters list of any division. The petitioners seem to base their objection on the following statement appearing at page 44 of the book entitled "the law of Municipal Corporations in British India" by Mr. P. Dorasawmy Iyengar - 2nd Edition, which they apparently consider is the law:-*

" A person is not qualified to be elected as a Councillor unless he is entitled to vote."

& Page 5 of (L) *When the lists were published as required by rule 15 of the Election Rules, Mr. Anniah Reddy applied for the inclusion of his name in the list of Hindus and Others eligible to be elected Commissioners under the 1st proviso to rule 5* × Page 2 of (L) *under which "when an undivided Hindu family* ~~have~~ has *paid double the taxes or land revenue herein mentioned, any one member thereof, having the other qualifications required, shall be eligible to be elected a Commissioner".*

P.T.

Page 5 of L

The Committee formed under Rule 18 of the Election Rules considered Mr. Anniah Reddy's application and entered his name in the list of Hindus and Others eligible to be elected Commissioners, but could not put in his name in the list of voters as his father's name was already there, nor did Mr. Reddy's application contain any request to include his name in the voters' list as well. I do not think that the objection put forward by the petitioners against the election of Mr. Anniah Reddy has any substantial argument in its favour.

Further we have two distinct lists in the Station, one for persons eligible to stand for election and another for persons eligible to vote, and both the lists become final according to Rule 20 of the Election rules after the time referred to in rules 18 and 19 expires. It is not anywhere stated in the rules that the absence of a name in the first list will be a bar to the election of that person as Commissioner even if his name is included in the 2nd list.

Page 5 of L

The rules governing elections in the Station do not permit, I think, of the lists being interfered with after the elections in the manner contemplated by the petition. In my opinion neither the President or nor the Resident are competent to interfere at this stage. If the petitioners choose, they may seek redress in a Court of Law.

I have the honour to be,
Sir,
Your most obedient servant,

Gayatt Rule
JR 1/33
President, M. C.

MVL.
27-11-33.

29/11/33

MUNICIPAL OFFICE
No. 8.8.9.2/33
23 NOV. 1933
CIVIL & MILITARY STATION, BANGALORE

To

The President,
Municipal Commission,
C & M Station, Bangalore.

Sir,

We beg to bring to your kind notice that Mr.J.S.Anniah - Reddi who was one of the candidates for election for the Ulsoor Division, is not a voter in any Division and his name as such, does not appear in the list of voters. He has therefore no right to be elected as Commissioner and his name is liable to be struck off. We understand that a person is not qualified to be elected as a Commissioner unless he is entitled also to vote. The mere fact that his name appears in the list of persons eligible for election as - Commissioners is not in itself final and conclusive as to his eligibility to be declared as a Commissioner.

We further understand that Mr. J. S. Anniah Reddi owns no property nor is he otherwise qualified to be elected as a Commissioner. We learn that the properties which stand in the name of Mr. J. Subbiah Reddi his father are all his self acquisitions to which Mr.J.S. Anniah Reddi has no right.

In this connection we wish to state that his name appears to have been included subsequent to the publication of the electoral rolls.

In the circumstances we pray that you would be pleased to consider the above objections before the declaration is made.

We beg to remain,
Sir,
Your most obedient servants,

Bangalore,
17th November 1933.

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All communications should be addressed to the Secretary to the Resident in Mysore, Bangalore, by designation and not by name.

No. 4248 DATED BANGALORE, 12/6/34

FROM

SECRETARY TO THE RESIDENT IN MYSORE.

To

The President,
Municipal Commission,
C. & M. Station, Bangalore.

Reference ~~this~~ your letter ~~memo.~~ No. 8895/33 dated the 28th November 1933.

Subject.

GENERAL ELECTION OF MUNICIPAL COMMISSIONERS.

The Hon'ble the Resident agrees that the election of Mr.Anniah Reddy cannot be interfered with on the grounds alleged in the petition enclosed ~~to~~ with your letter.

Clone 11/6

SECRETARY TO THE RESIDENT.

12.12.33.